

**DURHAM, NORTH CAROLINA
MONDAY, NOVEMBER 17, 2003
7:00 P.M.**

The Durham City Council met in regular session on the above date and time in the Council Chambers at City Hall with the following members present: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Excused Absence: Council Member Edwards.

Also present: City Manager Marcia L. Conner, City Attorney Henry Blinder, Deputy City Clerk Linda Bratcher and Records Management Coordinator Tonette Amos.

Mayor Bell called the meeting to order asking that Council Member Edwards be excused from the meeting.

SUBJECT: EXCUSED ABSENCE – COUNCIL MEMBER EDWARDS

MOTION by Council Member Cole-McFadden seconded by Council Member Clement to excuse Council Member Edwards from the meeting was approved at 7:02 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

The Mayor requested a moment of silent meditation and the Pledge of Allegiance was cited.

Mayor Bell read a proclamation declaring November 27, 2003 as *Feed America Thursday*.

Mayor Bell asked for priority items from the City Manager, City Attorney and City Clerk. City Manager Conner requested that Item #46 be added to the agenda [Durham City/County Interlocal Cooperation Agreement for Planning], Consent Agenda #5 [Proposed Refunding of 1994 and 1996 General Obligation Bonds] be placed on the General Business Agenda; and GBA #40 [Community Learning Center] be referred to the November 20, 2003 City Council Work Session.

Also, the City Manager provided a revised handout for Consent #4 [Contracts]; additional information for GBA Items #26 [Major Special Use Permit – Duke University Perkins Library] and #30 [Street Closing – Unnamed Alley West of N. Roxboro Road]; a revised ordinance for Supplemental Agenda #42 [Sales and Solicitation Ordinance]; the final lease agreement for Supplemental Agenda #44 [Lease of Burton Park to DHA]; and updated information for Consent #39 [Keep Durham Beautiful].

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to accept the City Manager's priority items was approved at 7:08 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

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There were no priority items from the City Attorney and City Clerk.

Mayor Bell announced that City Clerk D. Ann Gray would be absent from the meeting due to the death of her sister.

Council Member Cole-McFadden made comments on the first Neighborhood College graduation and the plaque received from students who attended the community service program. Also, she thanked City and County staff for their hard work.

Council Member Clement made comments on the newspaper article in The Herald-Sun regarding the City Manager's tenure and expressed a concern about the cartoon published November 7, 2003 concerning the City Manager.

Council Member Cole-McFadden congratulated Covenant Presbyterian Church on their new location where Council Member Stith attends.

Police Chief Steve Chalmers recognized Rebecca Reid from the Police Department for her outstanding accomplishment.

Mayor Bell recognized the Russian delegation in attendance.

Mayor Bell asked if any citizen(s) or council member(s) wanted to pull any items from the Consent Agenda. Consent Agenda Items #4 [Contracts]; 5 [Proposed Refunding of 1994 and 1996 General Obligation Bonds]; #21 [Parks and Recreation Master Plan 2003-2013]; #25 [Barnes Avenue Update]; and #35 [CACH-Collier, Alston Avenue and Chenault & Homewood was referred to the November 20, 2003 City Council Work Session.

Council Member Best noted that he would be voting no on Consent #17 [Durham Bulls Athletic Park Cleaning Contract Extension – CityScape Maintenance Group].

MOTION Mayor Pro Tempore Cheek seconded by Council Member Stith to approve the Consent Agenda as amended was approved at 7:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

[CONSENT AGENDA]

SUBJECT: APPROVAL OF CITY COUNCIL MINUTES – CITY CLERK'S OFFICE

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to approve the City Council Minutes for the following meetings; and

September 15, 2003 – Regular
September 15, 2003 – Special
September 25, 2003 – Special
September 30, 2003 - Special

October 6, 2003 – Regular
October 20, 2003 – Regular
October 20, 2003 – Special

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To approve City Council action taken at the September 25, 2003 City Council Work Session was approved at 7:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

SUBJECT: DURHAM BOARD OF ADJUSTMENT - APPOINTMENT

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to appoint Rebecca M. Winders to fill one (1) vacancy on the Durham Board of Adjustment as an Alternate Member with a term expiring on June 30, 2006 was approved at 7:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

SUBJECT: DURHAM AREA TRANSIT AUTHORITY- RECEIPT AND ACCEPTANCE OF APPLICATIONS

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to receive and accept applications for a citizen to fill one (1) vacancy for an Alternate Member on the Durham Area Transit Authority with a term expiring on March 1, 2006 was approved at 7:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

SUBJECT: BID REPORT – SEPTEMBER 2003

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to receive a report and to record into the minutes the bids which were acted upon by the City Manager during the month of September 2003 was approved at 7:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

CITY OF DURHAM NORTH CAROLINA

October 17, 2003

MEMO TO: Marcia L. Conner, City Manager

THROUGH: Kenneth C. Pennoyer, Finance Director

FROM: Joseph W. Clark, Purchasing Manager

SUBJECT: Bid Report

To approve and record in the minutes bids which were acted upon by the City Manager during the month of **September 2003**.

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Apparatus, Supplies, Materials, Equipment, Construction and Repairwork:

1. Bid: Estimated Requirements for Sodium Chloride (Snow Salt)

Purpose of Bid: To provide the Public Works/Street Maintenance Division with snow salt

Comments: This price is fixed for twelve (12) months.

Opened: August 29, 2003

Bidders:	International Salt	*\$44.85/ton
	Clarks Summit, PA	\$22,425.00
	Morton Salt	\$50.95/ton
	Chicago, IL	\$25,475.00
	Cargill, Inc.	\$54.36/ton
	North Olmsted, OH	\$27,180.00
	North American Salt	\$70.96/ton
	Overland Park, KS	\$35,480.00

*Awarded based on: ☒ Low Bid ☐ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	54		# Black Males	7	12%
Total # Females	15	28%	# White Males	29	54%
Total # Males	39	72%	# Other Males	3	06%
			# Black Females	0	00%
			# White Females	15	28%
			# Other Females	0	00%

Performance Bond: ☐ Waived ☐ Not Waived ☒ Not Required

The SDBE Data Base was used in the solicitation of bids for this item.

2. Bid: Atomic Absorption Spectrometer for the SDWRF

Purpose of Bid: This spectrometer measures the quantity of metal in the wastewater.

Comments:

Opened: September 10, 2003

Bidders:	Perkin Elmer	*\$14,130.00
	Shelton, CT	

*Awarded based on: ☒ Low Bid ☐ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	941		# Black Males	32	03%
Total # Females	197	20%	# White Males	635	67%

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Total # Males	744	80%	# Other Males	77	08%
			# Black Females	26	03%
			# White Females	137	15%
			# Other Females	34	04%

Performance Bond: ☐ Waived ☐ Not Waived ☒ Not Required

The SDBE Data Base was used in the solicitation of bids for this item.

3. Bid: Azteca Cityworks Annual Maintenance and Software Support

Purpose of Bid:

Comments: This software interfaces with all divisions under the Public Works Department.

Opened: September 11, 2003

Bidders: Azteca Systems, Inc. *\$22,500.00
Sandy, Utah

*Awarded based on: ☐ Low Bid ☒ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	17		# Black Males	0	00%
Total # Females	4	24%	# White Males	10	59%
Total # Males	13	76%	# Other Males	3	18%
			# Black Females	0	00%
			# White Females	4	23%
			# Other Females	0	00%

Performance Bond: ☐ Waived ☐ Not Waived ☒ Not Required

The SDBE Data Base was used in the solicitation of bids for this item.

4. Bid: Estimated Requirements for Liquid Aluminum Sulfate

Purpose of Bid: To provide the Environmental Resources with their estimated requirements for Liquid Aluminum Sulfate

Comments: This chemical is used to aid in the removal of suspended materials from water during the water treatment process. This price is fixed for (24) months.

Opened: September 5, 2003

Bidders: General Chemical Corporation *\$122.95/ton
Parsippany, NJ \$24,590.00
GEO Specialty Chemicals \$177.24/ton
Little Rock, AR \$35,448.00

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Kemiron Companies Inc.
Lawrence, KS

\$187.00/ton
\$37,400.00

*Awarded based on: X Low Bid _____ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	2,293		# Black Males	154	07%
Total # Females	432	19%	# White Males	1,526	66%
Total # Males	1,861	81%	# Other Males	181	08%
			# Black Females	26	01%
			# White Females	344	15%
			# Other Females	62	03%

Performance Bond: _____ Waived X Not Waived _____ Not Required

The SDBE Data Base was used in the solicitation of bids for this item.

Sufficient funds were available at the time of the award. The Administration recommends acceptance of the above bids denoted by an asterisk (*).

JWC:lm

**SUBJECT BIDS – JANITORIAL SERVICES FOR THE POLICE DISTRICT 2
SUBSTATION – CARR JANITORIAL SERVICE – JAN PRO
CLEANING SYSTEMS**

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to rescind the contract awarded to Carr Janitorial Service of Durham, NC in the amount of \$48,000 for Section II - District 2 Northgate Substation that was awarded on June 16, 2003 by the City Council; and

To award Section II – District 2 Northgate Substation to the next responsive bidder, Jan-Pro Cleaning Systems of Raleigh, NC in the amount of \$48,408 for Section II – District 2 Northgate Substation; and

To authorize the City Manager to enter into a contract with Jan-Pro Cleaning Systems of Raleigh, NC in the amount of \$48,408 to perform janitorial services for Section II – District 2 Northgate Substation; and

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 7:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

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SUBJECT: BIDS – FIRE AND RESCUE QUINT TOWER TRUCK – SUTPHEN CORPORATION – STEVENS FIRE EQUIPMENT, INC.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to accept of the bid from the Sutphen Corporation, represented by Stevens Fire Equipment, Inc., in the amount of \$549,680.76 for providing the City with a Fire and Rescue Quint Tower Truck; and

To authorize the City Manager to enter into a contract with the Sutphen Corporation, represented by Stevens Fire Equipment, Inc., in the amount of \$549,680.76 for providing the City with a Fire and Rescue Quint Tower Truck; and

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 7:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

SUBJECT: STREET CLOSING (SC03-03) – SET HEARING ON THE CLOSING OF 1.23 ACRES (53,411 SQUARE FEET) OF HERNDON ROAD, EXTENDING 650 FEET EAST FROM FAYETTEVILLE ROAD TO CROOKED CREEK

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to adopt a resolution to set a public hearing on the proposed 1.23 acres of Herndon Road, extending 650 feet east from Fayetteville Road to Crooked Creek closing and recombination for December 1, 2003 was approved at 7:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

Resolution #9052

SUBJECT: MAJOR SITE PLAN – SOUTHPOINT TERRACE (D03-152)

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to approve a major site plan, submitted by Priest, Craven and Associates, Inc., on behalf of Centex Homes, for the construction of 105 two-story townhome units on 20.28 acres, located on the east side of NC Highway 751, south of Renaissance Parkway, and north of Massey Chapel Road, zoned PDR 5.27, F/J-B, and MTC (Parcel ID 143337, 8 and 9) (PIN 0718-03-22-4553, 0718-03-22-9560, and 0718-03-32-6544), City Atlas: Page 49, Sections A-3, A-4, B-3 and B-4 was approved at 7:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

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**SUBJECT: N.C. DEPARTMENT OF TRANSPORTATION (NCDOT)
MUNICIPAL AGREEMENT FOR THE RE-INSPECTION OF
BRIDGES ON THE MUNICIPAL STREET SYSTEM**

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to adopt a resolution authorizing the City Manager to execute a municipal agreement with NCDOT for re-inspection of bridges on the Municipal Street System F A Project BRZ-NBIS (10) was approved at 7:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

Resolution #9054

**SUBJECT: NORTH CAROLINA STATEWIDE PASSENGER RAIL
INITIATIVE**

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to adopt a “Resolution in Support of a Statewide Initiative for Legislative and Funding Support for Enhanced and Improved Passenger Rail Service for the State of North Carolina” was approved at 7:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

Resolution #9053

**SUBJECT: RIGHT OF ENTRY AGREEMENT WITH RHEIN INTERESTS OF
RALEIGH, LLC TO CONSTRUCT A SEWER LINE ACROSS
CITY TRACT #1748 AT LEIGH FARM PARK PIN #0709-03-41-
6442 (OLD TAX MAP #485-01-004)**

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to authorize the City Manager to execute Right of Entry Agreement with Rhein Interests of Raleigh, LLC to Construct a Sewer Line on City Tract #1748; and

To authorize City Manager to modify the Agreement before execution provided the modifications are consistent with the general intent of the existing version of the Agreement was approved at 7:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

**SUBJECT: SALE OF A PORTION OF ENO RIVER PARK (WEST POINT ON
THE ENO PARK) TO NORTH CAROLINA DEPARTMENT OF
TRANSPORTATION (NCDOT) – GUESS ROAD WIDENING
PROJECT – STATE PROJECT NO. 8.1351302 - I.D. NO. U-2102 -
F.A. PROJECT STP-5329(5)**

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MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to accept NCDOT's offer of \$23,200 to purchase in fee simple absolute approx. 1.68 acres for right-of-way and approx. 0.76 acres for a temporary construction easement on a portion of City Tract #1121 (PIN #0814-04-94-1364 and PIN #0814-04-94-1468), on a portion of City Tract #847 (PIN #0814-04-94-3803), as well as approx. 0.168 acres in fee simple absolute for right-of-way and approx. 0.106 acres for a temporary construction easement on a portion of City Tract #819 (PIN #0824-01-15-0281); and

To authorize the City Manager to sell and the Mayor to convey the aforementioned property; and

To accept the conveyance of approx. 5.35 acres (PIN #0834-02-86-6767 and PIN #0834-02-86-9982) from the NCDOT to the City, as the replacement property was approved at 7:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

SUBJECT: SALE OF PROPERTY AT 2504 MAHALA DRIVE – CITY TRACT #2005 PIN #0832-08-89-7654 – OLD TAX MAP #618-01-048 – JEMIS BELIS FUNES

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to accept the offer of \$97,000 from Jemis Belis Funes to purchase the property at 2504 Mahala Drive; and

To authorize the City Manager to sell and the Mayor to convey the property by a non-warranty deed; and

To authorize the purchase of a home warranty as a part of the sale, cost not to exceed \$400 was approved at 7:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

SUBJECT: DURHAM BULLS ATHLETIC PARK CLEANING CONTRACT EXTENSION – CITYSCAPE MAINTENANCE GROUP

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to authorize the City Manager to extend the contract between the City of Durham and CityScape Maintenance Group until September 30, 2004 for an amount not to exceed \$271,713; and

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 7:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Clement, Cole-McFadden and Stith. Noes: Council Member Best. Excused Absence: Council Member Edwards.

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**SUBJECT: DURHAM AREA TRANSIT AUTHORITY (DATA)
MAINTENANCE AND OPERATIONS FACILITY ARCHITECT
CONTRACT AMENDMENT – ROBERT W. CARR, INC.
ASSOCIATED ARCHITECTS**

To authorize the City Manager to amend the Robert W. Carr, Inc. Associated Architects professional services contract to include consultant geotechnical services in an amount not-to-exceed \$50,000 of the contingency fund as long as the total contract amount does not exceed \$789,200; and

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract.

Note: This item was approved at the 11/6/03 Work Session with a vote of 6/0.

**SUBJECT: AMENDMENT TO THE LEASE AGREEMENT BETWEEN THE
CITY OF DURHAM AND DURHAM SHOPPING CENTER, LLC
FOR POLICE SUBSTATION #3**

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to authorize the City Manager to execute a Lease Amendment between the City of Durham and Durham Shopping Center, LLC modify the beginning and ending dates of the lease agreement for District #3 Police Substation; and

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 7:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

**SUBJECT: PROPOSED EMINENT DOMAIN PROCEEDINGS FOR A
GREENWAY EASEMENT ACROSS THE PROPERTY OF MR.
OLIVER ALPHIN FOR THE THIRD FORK CREEK GREENWAY
TRAIL – OLIVER ALPHIN**

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to find that it is necessary, in the public interest, and for the public use and benefit to condemn the following interest in the property of Mr. Oliver Alphin, identified as Tax Map 426-02-004C, also known as PIN 0719-03-30-6545, a greenway easement, 26 x 493, containing approximately 12,683 square feet, as shown on the Preliminary Plat for the proposed Third Fork Creek Trail, prepared by Riley Surveying, P.A. revised and dated August 27, 2003, PIN 0719-03-30-6545, Tax Map 426-02-003C, with a deposit of \$1,000, as the estimate of just compensation was approved at 7:29 p.m. by the following vote: Ayes:

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Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

**SUBJECT: CONTRACT FOR PSYCHOLOGICAL SERVICES FOR THE
POLICE DEPARTMENT – CARY PSYCHOLOGY, INC.**

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to authorize the City Manager to execute a contract with Cary Psychology, Inc. for psychological services for the Durham Police Department in an amount not to exceed \$216,800 for five years; and

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 7:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

SUBJECT: TRIANGLE TRANSIT AUTHORITY’S ANNUAL REPORT

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to receive a presentation on the Triangle Transit Authority’s Annual Report was approved at 7:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

SUBJECT: MELVIN L. WHITLEY

To receive comments from Melvin Whitley to re-evaluate the increase of water and sewer services.

Note: This citizen did not appear at the 11/6/03 Work Session.

SUBJECT: MADISON WHITFIELD

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to receive a report from the Administration on construction problems on Fairlawn and Carver Street was approved at 7:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

**SUBJECT: CACH-COLLIER, ALSTON AVENUE AND CHENAULT &
HOMEWOOD**

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MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to receive a report from the Administration on a construction project in the Community and to refer this item to the Work Session was approved at 7:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

SUBJECT: LEASE OF 106 MORRIS STREET TO SEBBAT ZERE D/B/A SELAM CONVENIENCE STORE (PORTION OF TAX MAP 30-06-002 – PIN #0821-08-87-5827 – PARCEL ID #103053)

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to approve the lease for the property at 106 Morris Street between the City of Durham and Sebbat Zere, d/b/a Selam Convenience Store, and

To authorize the City Manager to modify the agreement before execution provided that modifications do not increase the dollar amount of the agreement, and the modifications are consistent with the general intent of the existing version of the agreement was approved at 7:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

SUBJECT: AMENDMENT TO GRANT PROJECT ORDINANCE # 12821

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to adopt an ordinance amending Grant Project Ordinance #12821 to formally incorporate \$368,349 in additional Federal employment and training grant funds into the 2003-2005 City Employment and Training Budget for a new total of \$1,907,037 was approved at 7:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

Ordinance #12883

SUBJECT: AMENDMENT TO GRANT PROJECT ORDINANCE # 12799

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to adopt an ordinance amending Grant Project Ordinance # 12799 to formally incorporate \$52,001 in additional federal employment and training grant funds into the 2002-2004 City Employment and Training Budget for a new total of \$1,159,136 was approved at 7:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

Ordinance #12884

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SUBJECT: KEEP DURHAM BEAUTIFUL - SEEDS

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to adopt a resolution in support of the creation of the nonprofit organization Keep Durham Beautiful; and

To authorize the City Manager to execute a management agreement with SEEDS for the oversight of the program; and

To authorize the expenditure of \$10,000 for funding this new program was approved at 7:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

Resolution #9055

At this time, Supplemental Agenda Items 41 [Zuri and Associates, Inc. Request for Loan Repayment]; 42 [Sales and Solicitation Ordinance]; and 45[Keystone Park and Davis Drive Widening] were pulled for discussion later in the meeting.

[SUPPLEMENTAL AGENDA]

**SUBJECT: DURHAM HOUSING AUTHORITY BOARD – MAYOR’S
NOMINEE FOR APPOINTMENT**

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to appoint Thomas M. Niemann (Mayor’s Appointee) to the Durham Housing Authority Board with a term expiring September 28, 2005 was approved at 7:32 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

**SUBJECT: LEASE OF BURTON PARK TO THE DURHAM HOUSING
AUTHORITY**

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to rescind the motions approved on September 2, 2003 and replace with the following revised motions; and

To authorize the City Manager to execute the lease agreement with the Durham Housing Authority; and

To authorize the City Manager to make changes to the lease prior to execution provided such changes do not change the intent of the agenda memo or lease agreement and make changes to the lease agreement to reimburse the Durham Housing Authority \$2,200 for the cost of a Phase I Environmental Assessment of Burton Park; and

To request the City and the Durham Housing Authority staff evaluate the effectiveness of the lease arrangement prior to its first automatic renewal was approved at 7:32 p.m. by

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the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

[ITEM PULLED FROM CONSENT AGENDA]

SUBJECT: CONTRACTS

Council Member Cole-McFadden asked questions that were answered by staff concerning the two additional contracts added to the list by the Office of Economic and Employment Development for the Workforce Development Board and Youth Council Retreats.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to authorize the City Manager to execute contracts; and

To authorize the City Manager to make changes to contracts before execution as long as the changes do not increase the dollar amount and remain consistent with the general intent of the contracts was approved at 7:35 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

Contractor	Contract Description	Dept	CT Amt
Verizon Wireless	CDPD Wireless Service for AVL systems Tracking System	DATA	\$ 14,900.00
Gibbs Grading	Cleaning lot 1216 Moreland	Housing	\$ 975.00
Stephen Muhammed	Martial Arts Instruction	P&R	\$ 2,150.00
Raymond Dobson	Official	P&R	\$ 1,000.00
Dennis Scott	Official	P&R	\$ 1,000.00
Gaston Patterson	Official	P&R	\$ 575.00
Valeria Sumpter	Water Aerobics	P&R	\$ 1,008.00
Rebecca Newton	Senior Holiday Party	P&R	\$ 900.00
Rafael Lopez-Barrentes	Decorations Senior Holiday Party	P&R	\$ 2,500.00
William Dorsey	Official	P&R	\$ 2,000.00
Demetrius Williams	Music Entertainment Teen Dances	P&R	\$ 1,400.00
Jacqueline Hargrove	Computer Instructor	P&R	\$ 500.00
Ronald Andrews	Swim Coach	P&R	\$ 1,000.00
Bartow Saunders	Tae Kwon Do Instruction	P&R	\$ 1,215.00
Corp for a Skilled Workforce	Workforce Development Board Retreat	OEED	\$ 5,000.00
Corp for a Skilled Workforce	Youth Council Retreat	OEED	\$ 2,738.33

[GENERAL BUSINESS AGENDA]

SUBJECT: PROPOSED REFUNDING OF 1994 AND 1996 GENERAL OBLIGATION BONDS

November 17, 2003

To adopt a Resolution Making Certain Findings Relating to the Authorization and Issuance of General Obligation Refunding Bonds of the City Of Durham, North Carolina, and Ratifying Actions of Finance Officer in Filing Application for Approval Thereof with Local Government Commission and Related Matters.

To adopt an “Order Repealing Authorization for the Balance of the Refunding Bonds Authorized by Order Adopted on April 7, 2003”; and

To adopt a “Resolution Calling a Public Hearing Upon an Order Authorizing not Exceeding \$36,000,000 Refunding Bonds of the City of Durham, North Carolina”.

The public hearing is scheduled for December 1, 2003 at 7:00 p.m. in the Council Chambers.

Mayor Bell introduced resolution making certain findings relating to the authorization and issuance of general obligation refunding bonds of the City Of Durham, North Carolina, and ratifying actions of finance officer in filing application for approval thereof with Local Government Commission and related matters.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Best to adopt a Resolution Making Certain Findings Relating to the Authorization and Issuance of General Obligation Refunding Bonds of the City Of Durham, North Carolina, and Ratifying Actions of Finance Officer in Filing Application for Approval Thereof with Local Government Commission and Related Matters was approved at 7:36 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

Resolution #9062

Mayor Bell introduced order repealing authorization for balance of refunding bonds authorized by order adopted on April 7, 2003.

Finance Director Ken Pennoyer summarized order noting this order repeals the authorization for the unissued balance of the refunding bonds for the \$51,000,000 originally authorized on April 7, 2003. He noted that the refunding was successfully completed with the issuance of \$45,490,000 of refunding bonds and that this is a clean up item that removes the authorization for that previous general obligation refunding.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to adopt an “Order Repealing Authorization for the Balance of the Refunding Bonds Authorized by Order Adopted on April 7, 2003” was approved at 7:37 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

**ORDER REPEALING AUTHORIZATION FOR BALANCE OF REFUNDING
BONDS AUTHORIZED BY ORDER ADOPTED ON APRIL 7, 2003**

November 17, 2003

WHEREAS, pursuant to an order adopted on April 7, 2003, the City Council authorized the issuance of not exceeding \$51,000,000 Refunding Bonds of the City of Durham, North Carolina for the purpose of refunding all or any portion of the City's outstanding Public Improvement Bonds, Series 1992, Refunding Bonds, Series 1992, Refunding Bonds, Series 1993 and Public Improvement Bonds, Series 1995 (collectively, the "Refunding Bonds"); and

WHEREAS, pursuant to such authorization, the City issued, on June 3, 2003, \$45,490,000 General Obligation Refunding Bonds, Series 2003 to refund the Refunded Bonds; and

WHEREAS, such refunding having taken place, the City Council, based on the advice of its Bond Counsel and Financial Adviser, deems it advisable to repeal the authorization for the authorized but unissued balance (\$5,510,000) of such Refunding Bonds; now, therefore,

BE IT ORDERED by the City Council of the City of Durham:

1. That the authorization for the authorized but unissued balance of the Refunding Bonds authorized by the order adopted by the City Council on April 7, 2003 is hereby repealed.
2. That this order shall take effect upon its adoption.

Mayor Bell introduced order authorizing \$36,000,000 refunding bonds.

Finance Director Ken Pennoyer gave a summary of the order noting the order authorizes the issuance of refunding debt and it designates the Finance Officer as the City official who will file a sworn statement of debt with the Deputy City Clerk in the presence of the City Council.

MOTION by Council Member Clement seconded by Council Member Stith to adopt an Order Authorizing \$36,000,000 Refunding Bonds was approved at 7:38 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

ORDER AUTHORIZING \$36,000,000 REFUNDING BONDS

BE IT ORDERED by the City Council of the City of Durham:

1. That, pursuant to The Local Government Bond Act, as amended, the City of Durham, North Carolina, is hereby authorized to contract a debt, in addition to any and all other debt which said City may now or hereafter have power or authority to contract, and in evidence thereof to issue Refunding Bonds in an aggregate principal amount not exceeding \$36,000,000 for the purpose of providing funds, together with any other available funds, for refunding all or any portion of the City's outstanding Public Improvement Bonds, Series 1994 and Public Improvement Bonds, Series 1996, including the payment of expenses related thereto.

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2. That taxes shall be levied in an amount sufficient to pay the principal of and the interest on said bonds.
3. That a sworn statement of the debt of said City has been filed with the City Clerk and is open to public inspection.
4. That this order shall take effect upon its adoption.

Finance Director Ken Pennoyer filed the sworn statement with the City Clerk.

Mayor Bell introduced resolution calling a public hearing upon an order authorizing not exceeding \$36,000,000 Refunding Bonds of the City of Durham, North Carolina.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to adopt a "Resolution Calling a Public Hearing Upon an Order Authorizing not Exceeding \$36,000,000 Refunding Bonds of the City of Durham, North Carolina" was approved at 7:38 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

Resolution #9062

[ITEMS PULLED FROM CONSENT AGENDA]

SUBJECT: PARKS AND RECREATION MASTER PLAN 2003-2013

Steve Hopkins, of 920-B Wadesboro Street, noted PAC 1 was not given an update on the Master Plan to reflect comments made at the public hearing that the plan did not reflect the cleaning up of the park system, fixing existing parks before building new ones and the maintenance/repair schedule.

City Manager Conner noted an analysis of the maintenance needs of City parks and facilities will be provided in the spring. Also, she noted that staff will be seeking additional input from the community.

Council held discussion on Bethesda Park and status of playground equipment for Whippoorwill Park.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to adopt the Parks and Recreation Master Plan 2003-2013 was approved at 7:44 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

SUBJECT: BARNES AVENUE UPDATE

November 17, 2003

Steve Hopkins, of 920-B Wadesboro Street, asked staff to provide a listing of all people who lived on Barnes Avenue at the time of the redevelopment, how many were relocated and to where since the case worker will be on board soon and will need to contact these individuals.

Steve Chavis, of 801-C Underwood Avenue, noted he is a resident of Barnes Avenue and expressed a concern that money was only allocated to one area of Barnes Avenue and he hasn't gotten anything.

City Manager Conner informed Mr. Chavis that she would investigate his situation and get back in touch with him, but she believes that he is in the phase 2 Barnes Avenue initiative.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to receive a report on the Barnes Avenue Update was approved at 7:48 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

[ITEMS PULLED FROM SUPPLEMENTAL AGENDA]

SUBJECT: ZURI AND ASSOCIATES, INC. REQUEST LOAN PREPAYMENT

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to authorize the City Manager to deny the request of Zuri and Associates to repay the City's loan for Phoenix Crossing utilizing discounted cash flows (\$250,000) and to deny the removal of the lien placed on this project was approved at 7:48 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

SUBJECT: SALES AND SOLICITATION ORDINANCE

To adopt the proposed "Ordinance to Regulate Sales and Solicitations in Roadways"; and

To adopt the proposed "Resolution Establishing Fee for a Median Permit Under City Code Section 17-55".

Mayor Bell noted Council established a Sales and Solicitation Subcommittee who adopted the proposed ordinance draft.

Finance Director Ken Pennoyer noted the previous Sales & Solicitation ordinance adopted December 2002 did not address sales and solicitation activity in the roadways. He stated the proposed change from the subcommittee creates an ordinance that will regulate sales and solicitation in the roadway through a permitting process and gave an overview of the ordinance to regulate sales and solicitation in the roadways highlighting permit fee, daylight hours, outerwear, age, size of signs, etc.

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Mayor Bell noted a test of the proposed ordinance on certain groups was completed by the administration.

Ed Rose, of *The Herald-Sun*, spoke in support of this ordinance noting he found it to be a workable solution.

Council held discussion on schools, churches, test, and permit.

Mayor Bell noted the ordinance does allow for persons who are still doing car washes, but they cannot get out in the median.

Finance Director Ken Pennoyer noted the administration did look at how the ordinance would effect persons trying to do car washes, newspaper vendors, charity and civic groups, the Fire Department and panhandlers.

Council held discussion on solicitation on the side of the road and work zones.

Police Attorney Toni Smith spoke in support of ordinance noting it would address safety concerns.

Mayor Bell noted there would be no sales and solicitation conducted in work zones.

Finance Director Ken Pennoyer noted the permit would not be location specific.

Ted Voorhees informed Council there were two word changes in the ordinance on page 2, lines 53 and 88 from refutable to rebuttable.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to adopt the “Ordinance to Regulate Sales and Solicitations in Roadways” as amended; and

To adopt the “Resolution Establishing Fee for a Median Permit Under City Code Section 17-55” was approved at 8:07 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

Ordinance #12890

Resolution #9061

SUBJECT: KEYSTONE PARK AND DAVIS DRIVE WIDENING PROJECT

MOTION by Council Member Clement seconded by Council Member Stith to adopt a resolution in support of Keystone Park’s concerns related to the N.C. Department of Transportation’s planned Davis Drive widening project (U-4026B) was approved at 8:09 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

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Resolution #9056

[GENERAL BUSINESS AGENDA]

SUBJECT: BUDGET AMENDMENT TO CARRYOVER FUNDS FROM FY 2002-03 TO FY 2003-04

MOTION by Council Member Cole-McFadden seconded by Council Member Stith to adopt “An Ordinance Amending the 2003-04 City of Durham Budget Ordinance, the same being Ordinance 12814”; and

To adopt the City of Durham Employment and Training Project Ordinance in the amount of \$196,045, July 2003 until all Funds are Expended was approved at 8:11 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

Ordinance #s 12885 - 12886

SUBJECT: COMMUNITY LEARNING CENTER

To authorize the funding for the Community Learning Center in an amount not to exceed \$27,960 from the Council’s Contingency Fund; and

To authorize the City Manager to negotiate and execute an inter-local agreement with Durham County for these services.

Note: This item was referred to the November 20, 2003 City Council Work Session as noted by the City Manager.

[GENERAL BUSINESS AGENDA - PUBLIC HEARINGS]

SUBJECT: MAJOR SPECIAL USE PERMIT- DUKE UNIVERSITY PERKINS LIBRARY EXPANSION - CASE M03-02

To hold a quasi-judicial public hearing to consider a Major Special Use Permit for the expansion of the Perkins Library of Duke University in the R-10 District, and

To direct the Planning Director to prepare an order for adoption, for 1) approval, 2) approval with conditions or 3) denial, or to continue the hearing to a specified later meeting. (A draft order for approval with staff-recommended conditions will be available at the meeting).

Lappas + Havener, PA, on behalf of Duke University, is proposing an expansion to the Perkins Library located on Tel Com Drive, south of Research Drive. The expansion will be 138,507 square feet and 75 feet high. The library is located within Duke’s West

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Campus and is surrounded by various academic buildings. The proposal will reduce the existing number of parking spaces associated with this site. The project has received a height variance by the Board of Adjustment on September 23, 2003 and has been approved by the Development Review Board on September 23, 2003, subject to corrections and verifications that have since been made.

Deputy City Clerk Linda Bratcher swore in the following individuals: Frank Duke, Dick Hails, Michael Stock and Robert Emerson.

Mayor Bell explained the proceedings for a major special use permit hearing.

The Mayor asked Council to reveal any possible conflicts and to withdraw from this hearing if necessary. Also, Mayor Bell asked if any Council Member had been exposed to any evidence or information that may not come out at the hearing tonight.

Robert Emerson identified himself as representing the applicant.

Mayor Bell opened the public hearing.

Testimony from Staff

Michael Stock, of the City/County Planning Department, noted staff requests that the staff report and all attachments and exhibits be entered as a part of the permanent record. Mr. Stock stated in the matter of Case M03-02, Lappas+Havener PA, on behalf of Duke University, is requesting a Major Special Use permit to construct a 138,507 square foot, 75' high, addition to the Perkins Library, located within the West Campus of Duke University on TelCom Drive, south of Research Drive. He noted available university parking has been determined by the DRB to be sufficient for this project. The site plan for this project has received a recommendation for approval by the Development Review Board on September 23, 2003, subject to site plan corrections and verifications that have since been made, and will be the following item on your agenda, and a height variance from the Board of Adjustment has also been granted on September 23, 2003.

As a reminder, he noted Council must make findings of fact under Section 13.2.3 of the Durham Zoning Ordinance, that the proposed use is: 1) In harmony with the area and not substantially injurious to the value of properties in the general vicinity; 2) Will not adversely affect the health or safety of the public. Also, he noted Council shall also give consideration to items 1-10 under section 13.2.4 as indicated in the staff report and may impose conditions on the permit request that the Council deems necessary to ensure that this project is compatible and in harmony with the surrounding neighborhood.

There were no objections to the staff report being entered as part of the evidence.

The Mayor asked Council if there were questions for staff. There were no questions.

Testimony from Applicant

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Robert Emerson, representing the applicant, submitted copies of color renderings showing the view of proposed library addition and a copy of the site plan that has been approved by the Development Review Board.

City Attorney Blinder asked staff if there were any objections to this information being reviewed by Council Members. There were no objections.

Robert Emerson noted Perkins Library is the main library facility on Duke University's campus. He noted this project involves renovations and expansion of facility and the purpose of the addition is to reduce and address crowded conditions and to expand storage space for records materials and special collections. Mr. Emerson noted this project will not result in the addition of staff or faculty or impact the overall enrollment at the University. Also, he noted the project is in harmony with the area, would not injure property value or effect adjacent property owners, and will not adversely affect the public health, safety or welfare. He noted the building use and materials will all be consistent with the surrounding buildings, project will be a tremendous asset to Duke University and the City of Durham, and urged Council to approve the Major Special Use Permit.

The Mayor asked if there were questions for the applicant. There were no questions.

The Mayor asked if there was any one wanting to speak in opposition to the Major Special Use Permit. No one spoke in opposition to this item.

Mayor Bell declared the public hearing closed.

Staff Recommendation

Michael Stock, of the City/County Planning Department, noted based upon the technical requirements of the Durham Zoning Ordinance, staff recommends approval of Case M03-02 subject to the following condition: The project shall be completed in accordance with the site plan, including any additional corrections and verifications.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Cole-McFadden to adopt an order granting, upon certain conditions, a Major Special Use Permit for Duke University – Perkins Library Expansion, Case M03-02 was approved at 8:21 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

Ordinance #12887

SUBJECT: MAJOR SITE PLAN – DUKE UNIVERSITY PERKINS LIBRARY EXPANSION (D02-731)

(This item is not a Public Hearing)

To approve a site plan for a proposed 138,507 square foot, 75 foot high expansion to the existing Perkins Library, with removal of 14 motor vehicle parking spaces, and

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reconfiguration of the remaining 34 spaces, and addition of two new bicycle parking spaces (for a total of 20 spaces) on a 3.34 acre portion of a 1,238 acre site, zoned R-10.

The agenda item for the Major Special Use Permit (with a public hearing) (M03-02) associated with this site needs to be approved by City Council prior to consideration of this Major Site Plan.

City/County Planning Director Frank Duke noted this site plan is associated with the Major Special Use Permit that was approved for Duke University Perkins Library Expansion (M03-02). He noted staff is recommending approval.

MOTION by Council Member Clement seconded by Council Member Cole-McFadden to approve a site plan for a proposed 138,507 square foot, 75 foot high expansion to the existing Perkins Library, with removal of 14 motor vehicle parking spaces, and reconfiguration of the remaining 34 spaces, and addition of two new bicycle parking spaces (for a total of 20 spaces) on a 3.34 acre portion of a 1,238 acre site, zoned R-10 was approved at 8:23 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

**SUBJECT: REZONING MATTER CASE P02-35 – MCFARLAND PROPERTY
– MILLENNIUM COMMERCIAL PROPERTIES, LLC – 3409 MT.
MORIAH ROAD**

To receive public comments on rezoning Case P02-35 (McFarland Property); and

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in rezoning Case P02-35 out of R-20, OI-1 and OI-2 and placing same in and establishing same as GC(D).

Planning Department Recommendation: Approval, subject to approval of the land use plan amendment

Zoning Committee Recommendation and Vote: Denial - (6-1), citing traffic impact and stormwater management concerns

City/County Planning Director Frank Duke briefed Council on the staff report commenting on the committed elements, excluded uses, road improvements, traffic and school impacts. He noted the proposal is consistent with the Southwest Plan, provided Council with a revised letter from Durham Open Space & Trails (DOST) Commission expressing concern with stormwater management which is dealt with through the site plan process. Mr. Duke noted staff recommended approval and the Planning Commission recommended denial and gave an overview of the proximity of this site to streams.

Mayor Bell opened the public hearing.

Council Member Best asked staff if this proposal has met stormwater requirements.

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Frank Duke, City/County Planning Director, replied yes.

Hildegard Ryals, of 1620 University Drive, requested a 30-day deferral on this item so that the New Hope Creek Corridor Advisory Committee can review this proposal.

Proponent

Bill Ripley, representing the applicant, spoke in support of this item briefing Council on the history of this property and rezoning case. Mr. Ripley commented on numerous reviews of small area plan and re-submittals due to staff, engineering, environmental; traffic concerns; numerous meetings held with City staff, NCDOT, New Hope Creek Advisory Committee (Chair/Co-Chair). He noted parcel has no floodplain, no steep slopes, minimal 2/10 of wetlands, no regulated streams, no inventory species or plants. He noted the applicant has addressed the issues presented and has committed to 100% to what the Transportation and NCDOT have requested. Mr. Ripley urged Council to approve rezoning noting proposal would be a good asset to the tax and employment base and the future of Durham.

No one spoke in opposition to this rezoning request.

Mayor Bell expressed a concern about the potential impact this proposal can have on the New Hope Creek Corridor. The Mayor asked the applicant what is the proposed use for this property.

Bill Ripley, representing the applicant, noted high quality sit-down restaurants and vehicle sales center.

Mayor Bell spoke in opposition to car lots being placed on the property.

Mayor Pro Tempore Cheek noted he could not support this rezoning if a car dealership is going to be placed on the site and spoke in support of sidewalks along the private drive being a committed element. He made comments about the bicycle pedestrian access, wetlands and stormwater issues.

Frank Duke noted the design of the bicycle pedestrian access cannot be determined since the location of the transit station has not been identified. Also, he noted the administration would be asking for a reservation for the corridor; however, for the station there is no way that staff can do this on this site.

Bill Ripley, representing the applicant, noted pedestrian sidewalks and bike lanes will be on both sides of the extension of New Hope Commons Boulevard. Also, he noted he would be adding Item #27 as a committed element that limits uses to the prohibition of vehicle sales, leases and rentals.

Council Member Stith asked the applicant if he would be willing to commit to excluding drive-thru restaurants as a committed element. Also, he asked the applicant what was the response from the New Hope Creek Advisory Board to this plan.

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Bill Ripley, representing the applicant, replied yes to excluding drive-thru restaurants and noted the New Hope Creek Advisory Board has seen the current plan in September 2003 and they have not taken a position for or against it.

Hildegard Ryals noted that there was going to be a more sophisticated planning for overpass for pedestrians and bicycles to the New Hope Commons, that the automobile dealership had been ruled out long ago and that this was a mixed-use and not a commercial zoning and the plan has not changed much.

Council Member Cole-McFadden asked Hildegard Ryals what would be accomplished if this matter is deferred to the Advisory Board and asked the applicant if he would be willing to defer this item for 30 days.

Hildegard Ryals noted there would be the gathering of opinions from more members of the Committee and developers from Orange County and Chapel Hill concerning the commercial use.

Bill Ripley, representing the applicant, noted he would like to proceed forward tonight on this item.

Mayor Bell spoke in support of deferring this item.

Council Member Best made comments on the street lay out.

A motion was made by Council Member Best seconded by Council Member Clement to approve this item.

Mayor Pro Tempore Cheek asked staff questions concerning the proposed New Hope Corridor extension.

Wesley Parham, of the Transportation Division, noted the developer is building a portion of the New Hope Commons Boulevard extension and is in conformance with that plan. Also, he noted the developer would be dedicating all of right-of-way needed for the alternative road implementation plan at least as it effects this particular site. Also, he noted the developer would be required to extend New Hope Commons Boulevard from Mt. Moriah Road to their eastern property line and dedicate the full amount of right-of-way required for that and the applicant is required to build that to match the existing cross section to the west which is a three-lane collector road with wide-out side lanes for bicyclists and the appropriate sidewalks.

Proponent

Bill Harrison, representing adjacent property owners, spoke in support of this rezoning request. He noted if the automobile dealership and drive-thru restaurants are deleted this is a good beginning of the overall plan.

City Attorney Blinder noted it is up to the applicant to decide which uses the applicant would chose to exclude from the list that would otherwise be permitted. Also, he noted Council is to make a land use decision based on the public's health, safety and welfare.

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For clarification, he informed the applicant that this is not a bargaining section it is the applicant's prerogative to restrict uses and Council's prerogative to make the land use decision.

Mayor Bell read the list of 57 permitted uses for General Commercial District (GC).

Bill Ripley, representing the applicant, noted the applicant would be committing to the following uses: Artist Galleries; Banks and financial institutions with or without drive up windows; Business services; Health clubs and athletic facilities; Hotels and motels; Medical clinics; Offices; Personal service establishments; Photographic studios and photographic processing for retail; Recreation facilities, commercial, indoor; Restaurants and catering services without drive-up windows; Retail stores and shops; Showroom offices, not including vehicle sales; and Temporary outdoor events subject to Section 14. Also, he noted that applicant would be committing to none of the minor special uses or major special uses.

For the record, Frank Duke noted that staff would revise this second committed element to identify that these uses would be on the site are restricted to the following as listed above. [Mr. Duke did not indicate Artist Galleries]

Mayor Bell asked staff what can be done to make the appearance of the storm water retention better than what is being proposed.

Frank Duke noted the design of storm water facilities is not regulated through the zoning ordinance or sub-division ordinance, but is regulated through the stormwater ordinance. He noted the applicant has committed to one of three types of facilities.

Council Member Stith spoke in support of a buffer by adding additional shrubs and trees around the perimeter as an enhancement.

Frank Duke noted there are limitations to the amount of vegetation around the perimeter and still have it function.

Bill Ripley, noted that artist gallery was one that should have been included on the list of committed uses. He discussed how the bio-retention stormwater method would work and noted he wants it to be a pedestrian friendly attractive stormwater measure.

Frank Duke noted the applicant added artist gallery back in to the list of permitted uses and the applicant indicated that there would be sidewalks along private drive. Relative to comments made by the applicant, Mr. Duke noted the cap on the peak hour trips is 317.

Hildegard Ryals requested the applicant to consult with North Carolina State University concerning problems with plants.

Council Member Best amended his motion to include permitted uses noted by the applicant.

Mayor Bell declared the public hearing closed.

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MOTION by Council Member Best seconded by Council Member Clement to receive public comments on rezoning Case P02-35 (McFarland Property); and

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in rezoning Case P02-35 out of R-20, OI-1 and OI-2 and placing same in and establishing same as GC(D) [including an adopted list of 14 permitted uses and one added sidewalk commitment (along the private street) and in addition to all committed elements already included in the Development Plan attached to the rezoning request] was approved at 9:36 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

SUBJECT: REZONING MATTER CASE (P02-78) – PATTERSON PLACE II (P02-78) – LINCOLN HARRIS – SOUTHEAST CORNER OF THE INTERSECTION OF WATKINS ROAD AND MT. MORIAH ROAD

To receive public comments on rezoning Case P02-78 (Patterson Place II); and

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in rezoning Case P02-78 out of R-20 and OI-2; MTC and placing same in and establishing same as MU(D); MTC.

Planning Department Recommendation: Approval

Zoning Committee Recommendation and Vote: Approval - (7-0), citing compatibility with existing zoning

City/County Planning Director Frank Duke briefed Council on the staff report. He noted the proposal meets all requirements of the mixed-use ordinance, commented on committed elements, use, building height, roadway improvements, school and traffic impacts. Also, he noted staff recommends approval as well as the Zoning Committee.

Mayor Bell opened the public hearing. There being no one to speak in support or in opposition to this item, the public hearing was declared closed.

MOTION by Council Member Clement seconded by Council Member Best to receive public comments on rezoning Case P02-78 (Patterson Place II); and

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in rezoning Case P02-78 out of R-20 and OI-2; MTC and placing same in and establishing same as MU(D); MTC was approved at 9:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

SUBJECT: REZONING MATTER CASE (P03-28) – ST. JOSEPH COMMUNITY CENTER – ST. JOSEPH AME CHURCH –

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**NORTHEAST CORNER OF THE INTERSECTION OF NASH
STREET AND RICH STREET**

To receive public comments on rezoning Case P03-28 (St. Joseph Community Center);
and

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the
Durham City Code, by taking the described property in rezoning Case P03-28 out of OI-
2(D) and placing same in and establishing same as OI-2(D), Change in Development
Plan.

Planning Department Recommendation: Approval

Zoning Committee Recommendation and Vote: Approval - (7-0)

Mayor Bell excused himself from discussion on this item noting that UDI/CDC is one of
the owners for this project.

City/County Planning Director Frank Duke briefed Council on the staff report. He noted
that staff is recommending approval.

Mayor Pro Tempore Cheek opened the public hearing. There being no one to speak in
support or in opposition to this item, the public hearing was declared closed.

For clarification of earlier comments, Mayor Bell noted this is a part of a complex that
UDI/CDC is involved with and while we don't have direct interest in this matter—the
mayor requested to be excused from voting on this item.

MOTION by Council Member Clement seconded by Council Member Cole-McFadden
to excuse Mayor Bell from voting on this item was approved at 9:41 p.m. by the
following vote: Ayes: Mayor Pro Tempore Cheek and Council Members Best, Clement,
Cole-McFadden and Stith. Noes: None. Abstention: Mayor Bell. Excused Absence:
Council Member Edwards.

MOTION by Council Member Clement seconded by Council Member Stith to receive
public comments on rezoning Case P03-28 (St. Joseph Community Center); and

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the
Durham City Code, by taking the described property in rezoning Case P03-28 out of OI-
2(D) and placing same in and establishing same as OI-2(D), Change in Development Plan
was approved at 9:42 p.m. by the following vote: Ayes: Mayor Pro Tempore Cheek and
Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Abstention:
Mayor Bell. Excused Absence: Council Member Edwards.

**SUBJECT: STREET CLOSING (SC03-04) – APPROVE CLOSING OF 0.0328
ACRES (1,430 SQUARE FEET) WITHIN THE PUBLIC RIGHT-
OF-WAY OF AN UNNAMED ALLEY WEST OF N. ROXBORO
ROAD – SUBURBAN GROUP DEVELOPMENT, LLC**

November 17, 2003

To receive public comments on Street Closing (SC03-04); and

To adopt an ordinance permanently closing 0.0328 acres (1,430 square feet) within the public right-of-way of an unnamed alley west of N. Roxboro Road (SC03-04).

City/County Planning Director Frank Duke briefed Council on the staff report.

Mayor Bell opened the public hearing.

Patrick Byker, representing the applicant, spoke in support of this street closing.

Mayor Bell declared the public hearing closed.

MOTION by Council Member Clement seconded by Council Member Stith to receive public comments on Street Closing (SC03-04); and

To adopt an ordinance permanently closing 0.0328 acres (1,430 square feet) within the public right-of-way of an unnamed alley west of N. Roxboro Road (SC03-04) was approved at 9:43 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

Ordinance #12888

SUBJECT: DURHAM HISTORIC LANDMARK DESIGNATION ORDINANCE

Frank Duke, City/County Planning Director, briefed Council on the staff report.

Mayor Bell opened the public hearing.

Jeff Burdette, of 911 N. Mangum Street, spoke in support of this item.

Mayor Bell declared the public hearing closed.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to receive public comments on designating the James S. Manning House as an Historic Landmark; and

To adopt an ordinance of designation was approved at 9:45 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

Ordinance #12889

SUBJECT: TRANSPORTATION IMPROVEMENT PROGRAM (TIP) STATUS REPORT AND FY 2006-2012 TIP PROJECT PRIORITY LIST

November 17, 2003

To receive public comments on a priority list of transportation projects; and

To approve a resolution with a priority list of transportation projects, provided as Attachment A, to be submitted to the N.C. Department of Transportation and the MPO for funding consideration in the development of the 2006-2012 TIP; and

To receive a presentation on the 2004-2010 TIP. *(A presentation was received at the 11/6/03 Work Session).*

Transportation Manager Mark Ahrendsen briefed Council on this item making comments on the priority list of transportation projects. He noted the Planning Commission supported the recommended priority list as printed and the Bicycle Pedestrian Advisory Committee supported the list requesting an additional project be added to the list that includes the construction of bike lanes on Barbee Chapel Road between Farrington Road and NC 54 and to include language with priorities 3 and 7 to include the provision of bicycle and pedestrian features as part of those projects.

Mayor Bell opened the public hearing.

Richard Mullinax, of 921 N. Mangum Street and representing Steve Hopkins, requested that project #13 [purchase of new buses for DATA] be moved as a top priority.

Thad Howard, of 8 Coach Terrace and representing Bicycle & Pedestrian Commission, urged Council to include bike amendments and asked that language be added to #21 relative to including bicycle route as well. Also, he urged Council to implement project #12 within the next two years and noted that he would like to see 3% to 6% of City's funding acquisition for funding request be made towards bike pedestrian so that there is a study construction process going on with bicycle and pedestrian facility.

Chris Tiffany, of 611-F Lawson Street, made comments in support of sidewalks, bicycle trails, and public buses as priorities.

Dale McKeel, 3559 Hampstead Court, urged Council to add a sidewalk to project #16.

Mayor Bell declared the public hearing closed.

Mark Ahrendsen, Transportation Manager, noted this list of priorities is to be considered by the Technical Coordinating Committee within the next two to four weeks and go to the Transportation Advisory Committee in January.

Council Member Cole-McFadden asked staff if there are plans to buy new buses this fiscal year.

Mark Ahrendsen replied no.

Council Member Cole-McFadden spoke in support of emphasis being placed on Projects #13 and #16.

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MOTION by Mayor Pro Tempore Cheek seconded by Council Member Best to receive public comments on a priority list of transportation projects; and

To approve a resolution with a priority list of transportation projects, provided as Attachment A as amended [to include sidewalks added to #16; bike and pedestrian features added to Items 3 and 7; bike lanes on Barbee Chapel Road], to be submitted to the N.C. Department of Transportation and the MPO for funding consideration in the development of the 2006-2012 TIP; and

To receive a presentation on the 2004-2010 TIP was approved at 10:01 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

Resolution #9057

TIP PROJECT PRIORITY LIST

FY 2006-2012

City of Durham as approved by City Council on 11/17/2003

Priority	Project Description
1.	East End Connector – (A) US 70 from Southern Railway to NC 98 including railway structure. (B) US 70 from Miami to Southern Railway (C) Freeway connector between NC 147 and US 70.
2.	NC 54 (I-40 east to NC 55) - Widen existing two-lane facility to multi-lanes with a divided median with consideration for a bus rapid transit. Include bicycle and pedestrian features.
3.	NC 54 (Page Road south to Wake County line) - Widen 2-lane roadway to multiple lanes. Include bicycle and pedestrian features.
4.	Old Durham/Chapel Hill Road bicycle and pedestrian improvements between Garrett Road and Pope Road. Emphasize bicycle and pedestrian connectivity between residential areas, Githens Middle School, and the existing greenway and trail systems.
5.	US 70 (Lynn Road to County Line) – Convert existing 4-lane facility to 6-lane freeway consistent with the recommendations of the 2025 Long-Range Transportation Plan (LRTP) and the Highway Trust Fund (HTF) legislation.
6.	I-85 from US 70 to Red Mill Road. Widen from existing 4-lane freeway to 6-lane freeway.
7.	Northern Durham Parkway (A) I-85 to Old Oxford Road, 4-lane divided; (B) US 70 to I-85, 4-lane divided; and (C) Old Oxford Road to Roxboro Road – construct 2 lane road on a 4-lane right-of-way consistent with the recommendations of the 2025 Long-Range Transportation Plan (LRTP) and the Highway Trust Fund (HTF) legislation. Include bicycle and pedestrian features.
8.	I-40 High Occupancy Vehicle (HOV) lanes from US 15-501 to I-540. Construct HOV

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- lanes consistent with the 2025 LRTP and the Regional HOV study recommendation.
9. Erwin Road (SR 1306)– Bicycle improvements from NC 751 To Orange County Line.
 10. Carpenter Fletcher Road - Bicycle improvements from Woodcroft Parkway to Alston Avenue.
 11. Durham Freeway (NC 147) Extension from I-40 to I-540 - Construct new multi lane freeway facility.
 12. Bicycle and pedestrian connectivity to the Regional Rail System. Bicycle and pedestrian connectivity (within 1 mile radius) to future Phase I rail stations in Durham County (Duke University/Medical Center, 9th Street, Downtown, Alston Avenue, North RTP and Metro Center stations)
 13. Purchase 18 new buses for DATA service expansion.
 14. US 15-501 regional rail from Duke University to Chapel Hill consistent with the 2025 LRTP and the US 15-50 Major Investment Study (MIS).
 15. American Tobacco Trail - Phase IV from South Point Mall to Chatham County Line.
 16. Hope Valley Road bicycle enhancement projects. Include pedestrian enhancements.
 17. Holloway Street pedestrian project – Construct sidewalk from Junction Road to Lynn Road, and from Miami Blvd to US 70.
 18. Hillandale Street pedestrian project – Construct sidewalk from I-85 to Club Boulevard; and from Club Boulevard to NC 147.
 19. Hillsborough Road pedestrian project – Construct sidewalk from US 15-501 to Cole Mill Road.
 20. Latta Road (Guess Road to Roxboro Road) - Widen from existing 2-lane to a 3-lane with bike and pedestrian features.
 21. M.L. King, Jr. Parkway/NC 55 Interchange – Revise feasibility study to consider at-grade crossing at NC 55 to reduce project costs and complete connector to Cornwallis Road.
 22. Construct bicycle lanes on Barbee Chapel Road (SR 1110) between Farrington Road and NC 54.

MOTION by Council Member Best seconded by Council Member Stith to extend the meeting beyond 10:00 p.m. was approved at 10:01 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

[ITEM ADDED TO AGENDA]

November 17, 2003

**SUBJECT: DURHAM CITY/COUNTY INTERLOCAL COOPERATION
AGREEMENT FOR PLANNING**

To approve the Durham City/County Interlocal Cooperation Agreement as recommended by the Joint City/County Committee.

City/County Planning Director Frank Duke highlighted changes in the inter-local agreement for items B. 4 on page 3, C. 4 on page 4 and Section IV, C 2b on page 8. He noted the Joint City/County Committee is urging Council to adopt the inter-local agreement as recommended, which conforms to the inter-local approved by County Commissioners, and staff is concurring in that recommendation. He noted if Council does not adopt recommended changes, the alternative suggested by the Joint City/County Committee would be to add language indicating that the City and County appointees to each of these committees would follow the policies of their appropriate appointing body with regard to the payment of taxes.

Council Member Stith expressed a concern with treating appointees to the Planning Commission and Board of Adjustment differently from other appointees with regard to the payment of taxes.

MOTION by Council Member Clement seconded by Council Member Best to approve the Durham City/County Interlocal Cooperation Agreement as recommended by the Joint City/County Committee--as amended [language will be added to Interlocal Agreement that the City Council and Board of County Commissioners will apply their appropriate policy with respect to payment of property taxes for appointees] was approved at 10:08 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden and Stith. Noes: None. Excused Absence: Council Member Edwards.

There being no further business to come before the City Council, the meeting was adjourned at 10:10 p.m.

Linda E. Bratcher
Deputy City Clerk

D. Ann Gray, CMC
City Clerk